

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON MAY SELL UP TO FIVE MOTOR VEHICLES OR OTHER TYPES OF VEHICLES, INCLUDING TRAILERS, SNOWMOBILES, AND PERSONAL WATERCRAFT, IN A CALENDAR YEAR WITHOUT BEING LICENSED; AND AMENDING SECTION 61-4-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-4-101, MCA, is amended to read:

"61-4-101. Types of licenses and terms -- common application -- bonds -- zoning. (1) Except as provided in 61-4-120 and 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of ~~a motor vehicle, trailer, travel trailer, semitrailer, pole trailer, motorcycle, quadricycle, motorboat, personal watercraft, snowmobile, off-highway vehicle, more than five motor vehicles, trailers, travel trailers, semitrailers, pole trailers, motorcycles, quadricycles, motorboats, personal watercraft, snowmobiles, off-highway vehicles,~~ or special mobile equipment ~~that is not registered in the person's name in a calendar year~~ unless the person is the holder of a license issued by the department under this part.

(2) (a) The department may issue a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license to any person it determines is qualified to hold the license under the provisions of this section.

(b) A new dealer's license authorizes the holder to sell:

(i) any new motor vehicle, new power sports vehicle, or new trailer that is covered under a franchise agreement between the holder and the manufacturer, importer, or distributor of the line of vehicle or trailer offered for sale; and

(ii) any used motor vehicle, used power sports vehicle, or used trailer.

(c) A used dealer license authorizes the holder to sell any used motor vehicle, used power sports vehicle, or used trailer.

(d) A broker's license authorizes the holder to negotiate the purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer from a dealer or another person upon behalf of a client when the broker

1 does not store, display, or take ownership of the motor vehicle, power sports vehicle, or trailer being purchased,
2 sold, or exchanged.

3 (e) Except as provided in 61-4-120, an auto auction license authorizes the holder to take possession of
4 a used vehicle owned by another person through consignment, bailment, or any other arrangement and to sell
5 to the highest bidder when all bidders are licensed vehicle dealers, wholesalers, or wrecking facilities.

6 (f) A wholesaler license authorizes the holder to sell used vehicles to a new or used vehicle dealer, an
7 auto auction, or another wholesaler.

8 (3) Subject to the provisions of 61-4-120, 61-4-124, and 61-4-125, a license issued by the department
9 is valid until:

10 (a) voluntarily returned to the department for surrender and cancellation upon the cessation of the
11 licensee's business operations; or

12 (b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor
13 vehicles, power sports vehicles, or trailers.

14 (4) (a) An applicant for a new dealer's license, a used dealer's license, a broker's license, an auto auction
15 license, or a wholesaler license shall submit a written application to the department. The application must be
16 signed by the applicant and contain a verification by the applicant, under penalty of law, that the information
17 contained in the application is true and correct. Any information provided in the license application process is
18 subject to independent verification by the department or an authorized representative of the department.

19 (b) After examining a license application and conducting an investigation necessary to verify the
20 information contained in the application and if the department is satisfied that the applicant qualifies for the
21 issuance of a license under the provisions of this chapter, the department may issue the license. The department
22 may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for
23 licensure or whose prior financial or other activities or criminal record, as determined by the department:

24 (i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions;

25 (ii) poses a threat to the public interest of the state; or

26 (iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed
27 dealership, wholesaler, or auto auction.

28 (5) To be qualified for licensure, an applicant shall provide to the department the following information:

29 (a) the name under which the applicant intends to conduct business and the applicant's name, the street
30 address and, if different, mailing address for the business, and customer identification number;

1 (b) the name, date of birth, and social security number of any person who:

2 (i) possesses or will possess an ownership interest in the business for which the license is sought;

3 (ii) is a corporate officer or the managing member of a business entity applying for the license; or

4 (iii) is or will be designated by the applicant to manage or oversee the applicant's business;

5 (c) for each person subject to the provisions of subsection (5)(b), information concerning whether the
6 person has:

7 (i) an ownership interest in a vehicle dealership, an auto auction, or a wholesaler business in Montana
8 or any other state and, if so, the name and address of each dealership, auto auction, or wholesaler; and

9 (ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall
10 provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court
11 proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

12 (d) the name, address, and telephone number of the insurance carrier from whom the applicant has
13 acquired general liability insurance, naming the department as a certificate holder of the policy, and the name,
14 address, and telephone number of the local insurance agent for the carrier and the applicant's policy number.
15 The insurance must cover any motor vehicle bearing dealer or demonstrator license plates and any motorboat,
16 snowmobile, or off-highway vehicle displaying a dealer's identification card that is offered for demonstration or
17 loan to a customer or otherwise operated by a customer in the regular course of the applicant's business and
18 must be for a minimum of 1 year;

19 (e) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale, if
20 applicable, and of a permanent nonresidential building that will be maintained to store the actual physical or
21 electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is
22 sought. An applicant may use more than one location to display vehicles for sale if the maximum distance
23 between each display lot does not exceed 200 feet and if the distance between a display lot and the building in
24 which vehicle sales records are stored does not exceed 1,000 feet.

25 (f) for each geographic location specified in the application, evidence of the applicant's compliance with
26 applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance
27 may be documented by means of a written verification of compliance signed by the authorized representative of
28 the local land use planning or zoning board or the local business-permitting agency.

29 (g) a diagram or plat showing the geographic location, lot dimensions, if applicable, and building and sign
30 placement for the applicant's proposed established place of business, along with two or more photographs of the

1 geographic location, building premises, and sign, as prescribed by the department;

2 (h) if the applicant is seeking a new motor vehicle dealer's license:

3 (i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a
4 written new motor vehicle, power sports vehicle, or trailer franchise or sales agreement, the term of the
5 agreement, and the name and make of all motor vehicles, power sports vehicles, or trailers to be handled by the
6 applicant;

7 (ii) the geographic location or locations, specified in writing, upon which the applicant will provide and
8 maintain a permanent building to display and sell new motor vehicles, power sports vehicles, or trailers and offer
9 and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles,
10 power sports vehicles, or trailers; and

11 (iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter.

12 (6) If an applicant wants to maintain more than one established place of business, the applicant shall
13 file a separate license application for each proposed place of business and otherwise qualify for licensure at each
14 place separately.

15 (7) Each application under this section must be accompanied by the following fees:

16 (a) for a new or used dealer's license, a broker's license, or a wholesaler's license, \$30; and

17 (b) for an auto auction license, the fee provided for in 61-4-120.

18 (8) (a) Except as provided in subsection (8)(b), an applicant for a dealer's license, broker's license,
19 wholesaler's license, or auto auction license shall also file with the application a bond of \$50,000.

20 (b) An applicant whose business will be restricted to the sale of motorcycles or quadricycles shall file
21 a bond of \$15,000. An applicant whose business will be restricted to the sale of motorboats, personal watercraft,
22 snowmobiles, or off-highway vehicles, other than motorcycles originally equipped for use on the highway, shall
23 file a bond of \$5,000.

24 (c) All bonds must be conditioned that the applicant shall conduct the business in accordance with the
25 requirements of the law. All bonds must be approved by the department, must be filed in its office, and must be
26 renewed annually."

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